

DEC 16 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EVERARDO LARA-MIRANDA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71375

Agency No. A79-387-159

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Everardo Lara-Miranda, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' decision summarily affirming an

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Judge's order denying his application for cancellation of removal on hardship grounds. We dismiss the petition for review.

Lara-Miranda failed to exhaust his contention that his United States citizen children were denied due process in his removal proceedings in that the agency did not give them notice or the opportunity to be heard, and we therefore lack jurisdiction to consider this claim. *See* 8 U.S.C. § 1252(d)(1); *Sanchez-Cruz v. INS*, 255 F.3d 775, 780 (9th Cir. 2001) (due process claims raising correctable procedural errors must be exhausted before the BIA).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DISMISSED.